

REMARKS

Applicant submits this paper in response to the Non-Final Office Action dated May 18, 2009.

By way of this paper, independent claim 10 is currently amended. Support for the amendments to independent claim 10 can be found in the specification, e.g., at paragraph [0017], [0018], and [0020]. Therefore, no new matter has been added.

In light of the foregoing amendments to the claims and the following remarks, Applicant believes that the present application is in condition for allowance and respectfully requests the Office to acknowledge the same.

REJECTIONS UNDER 35 U.S.C. §103

Claims 10-18 stand rejected under 35 U.S.C. §103 as being assertedly obvious over Knepler (US 5,375,508) in view of Neumann (US 4,360,128). Claims 10-18 also stand rejected under 35 U.S.C. §103 as being assertedly obvious over Knepler '508 in view of d'Alayer de Costemore (US 4,468,406).

As amended, independent claim 10 now more clearly recites defining an amount of thermal energy required for each different type of drink unit, and that the performance status of the hot water source is not determined (solely) by the water level, but rather, by some combination of the measured level, temperature, and pressure. While the water level might be an additional parameter to be considered, especially for defining the upper or lower limits for filling, it is not suitable for defining a partial performance status of the hot water source when, as already indicated in claim 10, cold water is supplied to the hot water source during or shortly after withdrawal of hot water refilling the hot water source to the desired maximum level (due to physical properties this cold water will remain below the hot water until heated). The withdrawal will decrease the thermal capacity of the hot water source by the amount of the withdrawn drink unit. Upon a further demand for a fresh drink unit, the control of the present coffee machine verifies whether the thermal energy withdrawn by the previous drink unit(s) has lowered the thermal capacity of the hot water source too much to enable any or only specific fresh demands to be fulfilled and whether the thermal

energy required for that specific fresh demand could or could not be satisfied without lowering the thermal capacity of the hot water source below the lower limit.

The method of operating the present drink preparation machine includes the step of deciding which kind of drink unit should be presented to the use, usually coffee in different volumes (espresso, small cup, large cup or the like), hot water for preparing tea, or steam for frothing milk or the like. The next step is to determine how much thermal energy (volume of hot water at a specific temperature) would be required to prepare this kind of drink unit. For instance, steam preparation requires a higher temperature of water than the preparation of normal coffee, and the preparation of espresso requires a higher temperature than the preparation of normal coffee.

The determination and use of thermal energy required for each drink unit as a basis for determining the performance status is described in paragraph [0017] and the beginning of paragraph [0020] of the present application. Paragraph [0018] also describes that it is not only the water level in the boiler which defines the performance status, but also the temperature/pressure thereof.

Thus, it is seen that amended claim 10 now defines an amount of thermal energy to be required by each of the drink units where determining a performance status of the hot water source is based on some combination of two or more of the measured level, temperature and pressure. The same is not suggested, taught, or disclosed by Knepler '508, Neumann '128, or d'Alayer de Costemore '406, or any other known references of record, whether considered singly or in combination.

In light of the foregoing, Applicants therefore kindly request the Examiner to reconsider and withdraw the outstanding obviousness rejections.

CONCLUSION

Applicants believe that each of the outstanding rejections, objections, and/or other concerns have either been accommodated, traversed or rendered moot. Therefore, the application is considered to be in condition for allowance. Should there remain any

outstanding issue that the Office may be remedied via telephone conference, please contact the undersigned at (312) 474-6300.

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Respectfully submitted,

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